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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

LINDA ROLLINS

CIVIL ACTION NO. 08-0387

VERSUS

JUDGE ROBERT G. JAMES

ST. JUDE MEDICAL, ET AL.

MAG. JUDGE KAREN L. HAYES

RULING


On September 25, 2008, Magistrate Judge Karen L. Hayes issued a Report and Recommendation [Doc. No. 35] on the Motion to Dismiss [Doc. No. 16] filed by Defendants St. Jude Medical, Inc.; Kennsey-Nash Corporation; Tyco International, Inc.; Wyeth; and Tyco Healthcare Group LP (collectively referred to as "Defendants"). The Court ADOPTS Magistrate Judge Hayes' recommendation that the Motion to Dismiss be granted in part and denied in part.

As part of her Report and Recommendation, Magistrate Judge Hayes recommended that Defendants' Motion to Dismiss several of Rollins's claims be denied if Rollins amended her complaint.

On October 6, 2008, Rollins amended her complaint to allege that Defendants' failure to abide by FDA reporting requirements and to establish and maintain procedures for identifying devices led to the use of an Angio-Seal from a lot that should have been recalled prior to her procedure. [Doc. No. 37, ¶4J]. Rollins further alleges that, as a result, the Angio-Seal used in her procedure did not deploy properly and caused her injuries. Accordingly, the Court finds that Defendants' Motion to Dismiss Rollins's claim that Defendants failed to abide by FDA reporting requirements should be GRANTED IN PART and DENIED IN PART. As set forth in Magistrate Judge Hayes' Report and Recommendation, the Motion to Dismiss is GRANTED with respect to Rollins's claim that Defendants failed to file an adverse event report pertaining to her procedure.

The Motion to Dismiss is otherwise DENIED because Rollins amended her complaint to allege causation.

MONROE, LOUISIANA, this 20 day of October, 2008.

  
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ROBERT G. JAMES  
UNITED STATES DISTRICT JUDGE